

## **REMARKS/ARGUMENTS**

The Office Action dated June 25, 2009 has been reviewed and carefully considered. Claims 1-22 have been cancelled without prejudice. New claim 23-31 have been added, with no new matter having been added. Reconsideration of the above-identified application in light of the amendments and remarks is respectfully requested.

In the Office Action, claims 1, 5-22 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mimura et al (USP 6,393,005 B1) in view of Lomp et al (US 2002/0118729 A1). Claim 2 is rejected under 35 U.S.C 103(a) as being unpatentable over Mimura in view of Lomp and further in view of (MPEP 2144.03). Claim 3 is rejected under 35 U.S.C 103(a) as being unpatentable over Mimura in view of Lomp and further in view of Schmutz (WO/00/62442). It is respectfully submitted that new independent claims 23 and 27, are patentable over Mimura, Lomp and Schmutz for at least the following reasons.

Claim 1 recites the limitations of:

transmitting one or more first signals (DPCCH, DPDCH) simultaneously at a specified maximum combined transmit power level ( $P_{\max}$ );

wherein  $r$ , in response to a received signal, reducing the transmit power of the one or more first signals (DPCCH, DPDCH) and transmitting simultaneously with the one or more first signals (DPCCH, DPDCH) an additional one of a second signal (ACK or NACK) at a respective second specified power level ( $P_A$  or  $P_N$ ) and a third signal (NACK or ACK) at a respective third specified power level ( $P_N$  or  $P_A$ ), wherein the second specified power level ( $P_A$  or  $P_N$ ) exceeds the third specified power level ( $P_N$  or  $P_A$ ); wherein the reduction in transmit power of the one or more first signals (DPCCH, DPDCH) corresponds to the second specified power level ( $P_A$  or  $P_N$ ) irrespective of whether the additional signal is the second signal (ACK or NACK) or the third signal (NACK or ACK), such that when the additional signal is the third signal (NACK or ACK) the combined transmit power level is less than the specified maximum combined transmit power level ( $P_{\max}$ ).

Applicants can find nothing in either Mimura, Lomp or Schmutz, alone or in combination, that teaches or implies these limitations. Since Mimura, Lomp and Schmutz do not teach all of the limitations of independent claims 23 and 27, it cannot render the present invention obvious. For at least the above cited reasons, Applicant submits that Claims 23 and 27 are patentable over Mimura, Lomp and Schmutz. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of independent claims 23 and 27.

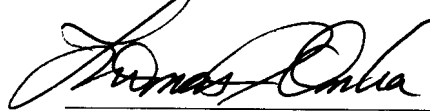
With regard to the dependent claims 24-26 and 28-31 these claims ultimately depend from one of the independent claims 23 or 27, which have been shown to be

allowable in view of the cited references. Accordingly, claims 24-26 and 28-32 are also allowable by virtue of their dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Dan Piotrowski  
Registration No. 42,079

A handwritten signature in black ink, appearing to read "Thomas J. Onka", written over a horizontal line.

By: Thomas J. Onka  
Attorney for Applicant  
Registration No. 42,053

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Mail all correspondence to:

Dan Piotrowski, Registration No. 42,079  
US PHILIPS CORPORATION  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001  
Phone: (914) 333-9624  
Fax: (914) 332-0615